

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re:)	
)	
CARL PINKERTON)	
)	Case No. 18-13649-BFK
)	Chapter 13
)	
Debtor.)	
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**OBJECTION TO CONFIRMATION OF PLAN,
NOTICE OF OBJECTION TO CONFIRMATION OF PLAN, AND
NOTICE OF SCHEDULED HEARING ON THIS MOTION**

COMES NOW, the Lakeside Homeowners Association, (the “Association”), a secured creditor, by counsel, and files this Objection to Confirmation of the Debtors’ proposed Chapter 13 Plan filed on January 31, 2019, as a result of Debtor’s failure in the proposed Plan to adequately recognize the pre-petition debt owed to the Association, and states as follows:

1. The Debtor filed a petition in this court under Chapter 13 of Title 11, United States Code (the Bankruptcy Code) on October 27, 2018.
2. The Association’s Proof of Claim was timely filed on January 2, 2019 (Claim #7), showing a total claim amount of \$27,223.58, of which \$24,326.22 is secured by liens against 14088 Madrigal Drive, Woodbridge, VA 22193 (the “Collateral”), copies of which were attached to the Proof of Claim.
3. Section 4A of Debtor’s proposed Chapter 13 Plan lists the Association’s secured claim as \$22,326.22 and indicates that the Collateral has a replacement value of \$200,574.00
4. However, Section 4D of Debtor’s proposed Chapter 13 Plan lists the Association’s secured claim

as only \$13,246.20 without adequate basis for such treatment.

5. Upon information and belief, the Collateral is the Debtor's principle residence and therefore 11 U.S.C. § 1322(b)(2) forbids modification of the Association's rights.
6. Furthermore, to the extent that the Association's secured claim could be modified by the Debtor's proposed Plan, Debtor's schedules filed on November 14, 2018 indicate that Debtor estimates the value of the collateral to be \$328,073.00 while his plan indicates claims secured by the Collateral only in the amount of \$207,121.43, indicating that there is significant equity in the Collateral.
7. Debtor's co-owner of the Collateral is a co-debtor for all amounts included in the Association's Proof of Claim.
8. It would be inequitable to allow the Debtor to force the Association to accept less than the full amount of its secured claim while there remains significant equity in the Collateral to which it would otherwise be entitled.
9. This Plan's failure to fully cure the pre-petition arrearage owed to the Association which is secured by the Collateral demonstrates that the Plan is not feasible and therefore in violation of 11 U.S.C. § 1325(a)(5).

WHEREFORE, the Association prays that its Objection be sustained, and that confirmation of the Debtor's proposed Chapter 13 Plan be denied, and for such other and further relief as this Court deems proper and just.

Respectfully submitted,
Lakeside Homeowners Association
By Counsel

/s/ Brad M. Barna
Brad M. Barna, VSB No. 88993
Chadwick, Washington, Moriarty,

Elmore, & Bunn, P.C.
3201 Jermantown Road, Suite 600
Fairfax, VA 222030
Ph. (703) 352-1900
Email: bbarna@chadwickwashington.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Objection to Confirmation of Chapter 13 Plan and Notice of Scheduled Hearing were sent this 28th day of February 2019, via electronic notice to the following:

Thomas P. Gorman
300 N. Washington Street, Ste. 400
Alexandria, VA 22314
Chapter 13 Trustee

Martin C. Conway
12934 Harbor Drive, Suite 107
Woodbridge, VA 22192
Counsel for Debtor

/s/ Brad M. Barna
Brad M. Barna

NOTICE OF OBJECTION TO PLAN, NOTICE OF SCHEDULED HEARING

Creditor, Lakeside Homeowners Association, has filed this Objection to Confirmation of the proposed Chapter 13 Plan filed in case 18-13649-BFK on January 31, 2019.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the court to grant the relief sought in the motion, or if you want the court to consider your views on the objection, then on or prior to the hearing date, you or your attorney must:

File with the court, at the address shown below, a written response with supporting memorandum as required by Local Bankruptcy Rule 9013-1 (H). Unless a written response and supporting memorandum are filed and served by the date specified, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing. If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above. You must also mail a copy to the persons listed below.

Attend the hearing scheduled to be held on March 7, 2019 at 1:30 p.m. at the United States Bankruptcy Court, 200 South Washington Street, Courtroom I, Alexandria, Virginia 22314. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

A copy of any written response must be mailed to the following persons:

Lakeside Homeowners Association
c/o Chadwick, Washington, Moriarty, Elmore & Bunn, P. C.
3201 Jermantown Road, Suite 600
Fairfax, VA 22030

Clerk of the Court
United States Bankruptcy Court
200 South Washington Street
Alexandria, VA 22314

Thomas P. Gorman, Chapter 13 Trustee
300 N. Washington Street, Ste. 400
Alexandria, VA 22314

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

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